



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.611 OF 2025

(Suraj s/o Suresh Mitkar Vs. State of Maharashtra and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms M.M. Muley, Advocate for the applicant.
Mr. A. Madiwale, APP for the State.
Mr. G.S. Bissa, Advocate for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JULY 18, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 17.04.2024 in connection with Crime No.148/2024 registered with Police Station M.I.D.C. Butibori, District Nagpur for the offences punishable under Sections 363, 376(2)(n), 376(3) of Indian Penal Code, 1860 and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012.

2. The crime is registered on the basis of the report lodged by the mother on an allegation that her daughter was not found at home on 14.04.2024, therefore, she searched for her and lodged a report against an unknown person. During the investigation, it revealed that the victim was along with the present applicant, and therefore, present applicant was arraigned as an accused. During investigation, the statement of the victim was recorded wherein she has stated that she has left the house at her own and joined the company of the present applicant, and there was physical relationship between them. On the basis of the said statement, the crime

was registered against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the statement of the victim is concerned it was she who joined the company of the present applicant, and there was no such physical relationship because the statement of the victim specifically stated that the accused has informed her that he would perform marriage with her when she attained the age of majority which shows the intention of the present applicant. She further submitted that in a statement under Section 164 of Cr.P.C., the victim has not narrated anything about the sexual assault on her. The medical evidence is also absent as far as the sexual assault is concerned. Now, the investigation is completed, charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned APP and learned Counsel for the victim strongly opposed the said application on the ground that considering the minor victim girl of 13 years, her consent is not relevant. She was subjected for the sexual assault. In view of that, the application deserves to be rejected.

5. On hearing both the sides and on perusal of the investigation papers, it reveals that it was the victim who left her house at her own, joined the company of the present applicant. As far as the physical relationship is concerned, at this stage, there is no medical evidence that she was subjected for the forceful sexual assault. Moreover, now the investigation is already completed, charge-sheet is already filed. In view of that, the application deserves to be allowed.

Accordingly, I proceed to pass the following order:

- (i) The application is allowed.
 - (ii) The applicant shall be released on bail in connection with Crime No.148/2024 registered with Police Station M.I.D.C. Butibori, District Nagpur for the offences punishable under Sections 363, 376(2)(n), 376(3) of Indian Penal Code, 1860 and Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012, on executing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety in the like amount.
 - (iii) The applicant shall not enter into the vicinity of village Takalghat, Taluka Hingna, District Nagpur till culmination of the trial.
 - (iv) The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.
 - (v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either physically or by way of electronic media.
6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)